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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

CHASOM BROWN, *et al.*, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

GOOGLE LLC,  
Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**GOOGLE LLC'S ADMINISTRATIVE  
MOTION TO SEAL PORTIONS OF THE  
JANUARY 10, 2023 HEARING  
TRANSCRIPT (DKT. 828)**

Referral: Hon. Susan van Keulen, USMJ

## I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Defendant Google LLC (“Google”) respectfully seeks to seal certain portions of the January 10, 2023 Hearing Transcript (“Hearing Transcript”), which contains non-public, highly sensitive and confidential business information that could affect Google’s competitive standing and may expose Google to increased security risks if publicly disclosed, including details related to Google’s internal projects, internal databases, and logs, and their proprietary functionalities, data size, as well as internal metrics, which Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google’s competitors. This information is highly confidential and should be protected.

This Administrative Motion pertains to the following information contained in the Hearing Transcript:

Documents Sought to Be Sealed	Portions to be Filed Under Seal	Party Claiming Confidentiality
January 10, 2023 Hearing Transcript	<p>Highlighted Portions at:</p> <p>Pages 7:15-16, 8:9-10, 8:18, 8:21-22, 9:2-3, 9:5, 9:25, 12:5, 12:18, 12:25, 13:4, 15:16-18, 15:25, 16:8, 16:11-12, 17:6, 17:8, 18:6-10, 18:13-16, 18:18, 19:17-18, 20:11, 21:23-24, 22:25, 26:10, 28:10, 28:21-22, 29:1-2, 29:4-7, 29:10-11, 29:16, 30:4, 31:23, 34:22-24, 35:19, 35:22-23, 35:25</p>	Google

## II. LEGAL STANDARD

A party seeking to seal material must “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is “sealable”). Civ. L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.*

In the context of dispositive motions, materials may be sealed in the Ninth Circuit upon a showing that there are “compelling reasons” to seal the information. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179-80 (9th Cir. 2006). However, a party seeking to seal information in a

1 nondispositive motion, such as the underlying motion here, must show only “good cause.” *Id.* at 1179-  
 2 80. The rationale for the lower standard with respect to non-dispositive motions is that “the public has  
 3 less of a need for access to court records attached only to non-dispositive motions because these  
 4 documents are often unrelated, or only tangentially related, to the underlying cause of action” and that  
 5 as a result “[t]he public policies that support the right of access to dispositive motions, and related  
 6 materials, do not apply with equal force to non-dispositive materials.” *Kamakana*, 447 F.3d at 1179;  
 7 *see also TVIIM, LLC v. McAfee, Inc.*, 2015 WL 5116721, at \*1 (N.D. Cal. Aug. 28, 2015) (“Records  
 8 attached to nondispositive motions are not subject to the strong presumption of access.”) (citation  
 9 omitted). Under the “good cause” standard, courts will seal statements reporting on a company’s  
 10 users, sales, investments, or other information that is ordinarily kept secret for competitive purposes.  
 11 *See Hanginout, Inc. v. Google, Inc.*, 2014 WL 1234499, at \*1 (S.D. Cal. Mar. 24, 2014); *Nitride*  
 12 *Semiconductors Co. v. RayVio Corp.*, 2018 WL 10701873, at \*1 (N.D. Cal. Aug. 1, 2018) (granting  
 13 motion to seal “[c]onfidential and proprietary information regarding [Defendant]’s products” under  
 14 “good cause” standard) (van Keulen, J.). Although the materials that Google seeks to seal here easily  
 15 meet the higher “compelling reasons” standard, the Court need only consider whether these materials  
 16 meet the lower “good cause” standard.

### 17 **III. THE ABOVE IDENTIFIED MATERIALS SHOULD ALL BE SEALED**

18 Courts have repeatedly found it appropriate to seal documents that contain “business  
 19 information that might harm a litigant’s competitive standing.” *Nixon v. Warner Commc’ns, Inc.*, 435  
 20 U.S. 589, 589-99 (1978). Good cause to seal is shown when a party seeks to seal materials that  
 21 “contain[] confidential information about the operation of [the party’s] products and that public  
 22 disclosure could harm [the party] by disclosing confidential technical information.” *Digital Reg of*  
 23 *Texas, LLC v. Adobe Sys., Inc.*, 2014 WL 6986068, at \*1 (N.D. Cal. Dec. 10, 2014). Materials that  
 24 could harm a litigant’s competitive standing may be sealed even under the “compelling reasons”  
 25 standard. *See e.g., Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, 2015 WL 984121, at \*2  
 26 (N.D. Cal. Mar. 4, 2015) (information “is appropriately sealable under the ‘compelling reasons’  
 27 standard where that information could be used to the company’s competitive disadvantage”) (citation  
 28 omitted). Courts in this district have also determined that motions to seal may be granted as to

1 potential trade secrets. *See, e.g. United Tactical Sys., LLC v. Real Action Paintball, Inc.*, 2015 WL  
2 295584, at \*3 (N.D. Cal. Jan. 21, 2015) (rejecting argument against sealing “that [the party] ha[s] not  
3 shown that the substance of the information . . . amounts to a trade secret”).

4 Here, the Hearing Transcript contains confidential and proprietary information regarding  
5 highly sensitive features of Google’s internal systems and operations that Google does not share  
6 publicly. Specifically, this information provides details related to Google’s internal projects, internal  
7 databases, and logs, and their proprietary functionalities, data size, as well as internal metrics. Such  
8 information reveals Google’s internal strategies, system designs, and business practices for operating  
9 and maintaining many of its important services while complying with its legal and privacy obligations.

10 Public disclosure of the above-listed information would harm Google’s competitive standing it  
11 has earned through years of innovation and careful deliberation, by revealing sensitive aspects of  
12 Google’s proprietary systems, strategies, and designs to Google’s competitors. That alone is a proper  
13 basis to seal such information. *See, e.g., Free Range Content, Inc. v. Google Inc.*, No. 14-cv-02329-  
14 BLF, Dkt. No. 192, at 3-9 (N.D. Cal. May 3, 2017) (granting Google’s motion to seal certain sensitive  
15 business information related to Google’s processes and policies to ensure the integrity and security of  
16 a different advertising system); *Huawei Techs., Co. v. Samsung Elecs. Co.*, No. 3:16-cv-02787-WHO,  
17 Dkt. No. 446, at 19 (N.D. Cal. Jan. 30, 2019) (sealing confidential sales data because “disclosure  
18 would harm their competitive standing by giving competitors insight they do not have”); *Trotsky v.*  
19 *Travelers Indem. Co.*, 2013 WL 12116153, at \*8 (W.D. Wash. May 8, 2013) (granting motion to seal  
20 as to “internal research results that disclose statistical coding that is not publicly available”).

21 Moreover, if publicly disclosed, malicious actors may use such information to seek to  
22 compromise Google’s data logging infrastructure. *See, e.g., In re Google Inc. Gmail Litig.*, 2013 WL  
23 5366963, at \*3 (N.D. Cal. Sept. 25, 2013) (sealing “material concern[ing] how users’ interactions with  
24 the Gmail system affects how messages are transmitted” because if made public, it “could lead to a  
25 breach in the security of the Gmail system”). The security threat is an additional reason for this Court  
26 to seal the identified information.

27 The information Google seeks to redact, including information related to Google’s internal  
28 projects, internal data logging systems, data size, as well as internal metrics, is the minimal amount of

1 information needed to protect its internal systems and operations from being exposed to not only its  
 2 competitors but also to nefarious actors who may improperly seek access to and disrupt these systems  
 3 and operations. The “good cause” rather than the “compelling reasons” standard should apply but  
 4 under either standard, Google’s sealing request is warranted.

#### 6 IV. CONCLUSION

7 For the foregoing reasons, the Court should seal the identified portions of the Hearing  
 8 Transcript.

9 DATED: January 23, 2023

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